

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Kathleen Johnson,
Appellant,

v.

Union County Board of Review,
Appellee.

ORDER

Docket No. 13-88-0009
Parcel No. 34020-000-068-00

On October 24, 2013, the above captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Kathleen Johnson was self- represented. Union County Assessor Gene Haner represented the Board of Review at hearing. County Attorney Timothy R. Kenyon is the legal representative for the Board. The Appeal Board, having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Kathleen Johnson is the owner of a single-family property located at 200 Railroad Street in Thayer, Iowa. The real estate was classified residential on the January 1, 2013, assessment and valued at \$44,770, allocated as \$2,870 in land value and \$41,900 in dwelling value.

According to the property record card, the subject property is a one-story, frame home built in 1920. The subject property has 816 square feet of above-grade living area. The property record card states it has a full, unfinished basement with a concrete floor. The home has a 128 square-foot enclosed porch and 128 square-foot deck. The property record card lists the property as being of average quality (4+5) grade and normal condition. The site is 0.70 acres.

Johnson protested to the Board of Review on the ground that the property was assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2). The Board of Review

denied her claim. Johnson then appealed to this Board reasserting her over-assessment claim and stated the correct fair market value is \$32,000.

Johnson testified she and her husband buy “fixer-up properties.” They purchased the subject property in November 2006 for \$15,500, from the Federal National Mortgage Association (FNMA). Because the purchase was the result of a foreclosure, it would not be considered normal for assessment purposes. Iowa Code section 441.21(1)(b). In arriving at market value, sales prices of property in abnormal transactions not reflecting market value shall not be taken into account, or shall be adjusted to eliminate the effect of factors which distort market value under Iowa Code section 441.21(1)(b). We also note the subject property had a prior sale in April 2006 for \$47,926. The record indicates this was a Sheriff’s Sale, which would also be considered abnormal.

Prior to the Johnsons purchasing the subject property, it had been vandalized. Johnson explained the copper water pipes, furnace, and central air had been removed from the property. After purchasing the property, the Johnsons installed electric baseboard heat and repaired the plumbing.

Johnson also testified the location of the property is less than desirable. She stated the property is located next to a railroad track and a highway crossing. As a result, she lost two renters because of its location near the railroad. She currently rents the property for \$350 per month.

Johnson submitted photos of the subject property and explained it is “an old house” with a basement that is unusable because it has a dirt floor and is damp. The water heater is located in the basement; however, other than that it is unused, even for storage. When questioned if she agreed with the property record card rating the improvements as “normal condition,” she testified she agreed with that conclusion. She also testified that she invited the Board of Review to inspect her property, which it did as part of this appeal process.

Johnson submitted an October 2013 letter from her real estate broker, Retta Ripperger, of R Realty of Creston, Creston, Iowa. Ripperger explains that she evaluated the subject property and, as a

result, questions the value compared to other similar properties. She stated her evaluation considered Union County sales that occurred in the last twelve months but that she found only seven sales similar enough for comparison. Furthermore, Ripperger references an “enclosed spreadsheet” showing the similarities of the other properties compared to the subject. However, this Board was not provided with the spreadsheet. Because the letter does not provide any addresses or salient information about the properties Ripperger considered in her evaluation, and ultimately she does not conclude an opinion of market value, we give it no consideration.

Johnson submitted six properties she considered comparable to her property, which she stated Ripperger selected. She included pictures and partial property assessment records. The following chart outlines the six properties.

Address	Style	Year Built	Gross Living Area	Assessed Value	Sale Price	Sale Date	Grade
Subject	1 Sty	1920	816	\$44,770	\$15,500	Nov-06	4+05
208 W Railroad, Afton	1 Sty	1903	942	\$25,160	\$36,000	Nov-12	5+10
714 Main St, Lorimor	1 Sty	1900	716	\$19,410	\$36,000	Sep-13	5+05
306 1/2 N Cherry St, Creston	1 Sty	1903	744	\$11,000	\$35,000	Mar-13	5-05
411 S Vine St, Creston	1 Sty	1926	832	\$54,130	\$92,500	Sep-13	4+00
506 New York, Creston	1 Sty	1922	876	\$83,870	\$63,300	Oct-12	4+05
1103 N Elm, Creston	1 Sty	1913	860	\$49,290	\$29,000	Dec-12	4+00

Johnson asserts the property located at 208 W Railroad, Afton, Iowa is the most similar to her property, although it has a garage and the subject property does not. Further, she questioned why 208 W Railroad has an assessed value of \$25,160, compared to her assessment of \$44,770. She believes Afton is a superior location with restaurants, convenience stores, gas stations, and a bank. While we find this sale to be similar in style, size, and age, it differs from the subject property in both grade and condition. The subject property is listed in normal condition with a quality grade of 4+05 (average). Conversely, 208 W Railroad is listed in below normal condition with a quality grade of 5+10 (below

average). Moreover, Johnson does not make any adjustments for the differences, or the superior location of this sale compared to her property to determine a fair market value.

Likewise, Johnson does not make any comparison of the remaining sales to her property, or conclude an opinion of value based on this data. Further, we note 714 Main Street, 306 ½ Cherry Street, and 411 S Vine Street, all sold in 2013, after the January 1, 2013, assessment date. It is preferred that sales occur prior to the protested assessment date. In addition, the record indicates 506 New York and 1103 N Elm were abnormal sales occurring as the result of foreclosure. As previously noted, without adjustments for the distorting factors, abnormal sales shall not be taken into account. § 441.21(1)(b). Ultimately, Johnson did not provide sufficient evidence to support an opinion of the subject property's fair market value as of January 1, 2013.

Union County Assessor Gene Haner testified for the Board of Review. He does not believe the properties submitted by Johnson are comparable because they have different grades or because they are not normal sales. Further, he points out that the sales which were considered to be normal, all sold for more than the assessed value. In his opinion, this affirms the assessments are reasonable.

Haner also testified he was unaware the subject property had been vandalized or that electric baseboard heat had been installed. While not placing blame, he asserts it is the legal responsibility of the property owner to notify the Assessor when a property is improved. He also asserts he was unaware the basement's concrete floor "had been removed." He believes the subject property had a concrete floor in the basement at one time. He bases his belief on the property record card which reports a concrete floor, and the hearsay of a Board of Review member who inspected the property at Johnson's request. Haner stated the Board of Review member was a contractor, who told him the basement had a concrete apron around the foundation which led him to believe the remaining concrete had been removed. Regardless of whether the subject ever had a concrete floor in the basement prior

to the January 1, 2013, assessment, the record is clear and undisputed that it did not exist as of the January 1, 2013, assessment.

When questioned about the differences between Thayer, where the subject is located, and the other towns considered in the appeal (Creston, Lorimor, and, Afton), Haner explained that Thayer was a very small town of only 25-30 people. He referred to many of the properties in Thayer as “ramshackle” and explained that because of the size of the area and lack of amenities all the properties in Thayer received a 20% obsolescence adjustment for location.

Additionally, when questioned if he believed the grade and condition ratings of the subject property were reflective of the improvements, Haner asserted they were.

At this Board’s request, Haner provided a value opinion, based on the Department of Revenue Cost Manual, correcting the basement floor from concrete to dirt; as well as replacing the gas forced air to electric baseboard and removing the central air feature. His conclusion is an \$1860 reduction in the January 1, 2013, assessment.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

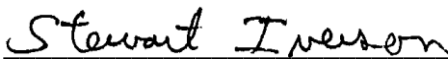
In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

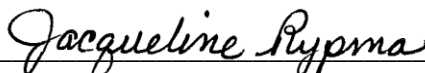
In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Johnson submitted six properties for comparison which sold between October 2012 and September 2013. Three of these sales occurred after the January 1, 2013, assessment date and are of minimal relevance to a determination of the property's fair market value as of that date. Further, two of the properties she considered were sales that occurred as the result of foreclosure and therefore are considered abnormal. Section 441.21(1)(b) states the sale prices of properties in abnormal transactions not reflecting market value must not be taken into account, or must be adjusted to eliminate the effect of factors which distort market value, including . . . *foreclosure* or other forced sales. Thus, Johnson only offered one normal, arm's length sales transaction that occurred prior to the January 1, 2013, assessment. However, this sale and the other sales Johnson submitted sales were unadjusted for differences for quality, condition, location, and other factors. Ultimately, Johnson's evidence is insufficient to establish the property's fair market value as of January 1, 2013.


Although Johnson failed to provide sufficient evidence of the correct fair market value for the subject property as of January 1, 2013, the Board of Review has corrected some listing errors that were identified at hearing. The correction of these errors results in a reduction of \$1860 to the January 1, 2013, assessment.

THE APPEAL BOARD ORDERS the assessment of the Board of Review is modified to a total of \$42,910 as of January 1, 2013. The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Union County Auditor and all tax records, assessment books, and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 5th day of December, 2013.


Stewart Iverson, Presiding Officer


Jacqueline Rypma, Board Member


Karen Oberman, Board Member

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